

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JOHN M. CONSTANTINI, : Civil Action No. 05-680 (GMS)
on his own behalf and as administrator of :
the estate of CHERYL A. CONSTANTINI, :
 :
Plaintiff, :
 :
 :
v. :
 :
 :
OPTIMUM CHOICE, INC. :
 :
 :
Defendant. :

MOTION FOR ENLARGEMENT OF TIME PURSUANT TO FED. R. CIV. P. 6(b)

Defendant, Optimum Choice, Inc. (“Optimum”) respectfully moves the Court for an Order extending the time by which Optimum shall answer, move against or otherwise respond to the Complaint filed by Plaintiff John M. Constantini, on his own behalf and as administrator of the estate of Cheryl A. Constantini, through and until October 24, 2005. The grounds for this motion are as follows.

1. On or about September 19, 2005, Defendant removed this action to this Court.
2. On or about September 26, 2005, Defendant filed a stipulation for extension of time in which the plaintiff agreed to an extension to respond to the complaint until October 17, 2005. The original request was to provide additional time to investigate plaintiff's claims.
3. In order to complete that investigation and to appropriately respond to plaintiff's claims, plaintiff graciously agreed to an additional week for Optimum to respond to the Complaint. A stipulation in the form of an Order extending the time until October 24, 2005 is attached to this Motion.

4. Pursuant to Fed. R. Civ. P. 6(b) a Court may enlarge the period of time to respond to the Complaint if the request is made before the expiration of the period prescribed and may enlarge the period of time if the request is not made before the expiration of the period if there exists excusable neglect. Defendant respectfully requests that the Court enlarge the period of time for the reasons stated in paragraphs 2 and 3 above.

WHEREFORE, defendant Optimum requests that the Court enter an Order which grants an extension for Wachovia to answer, move against or otherwise respond to the complaint until October 24, 2005.

Respectfully submitted,

/S/ Maryanne T. Donaghy, Esq.

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Attorney for Defendant,
Optimum Choice, Inc.

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CERTIFICATE OF SERVICE

I, Maryanne T. Donaghy, do hereby certify that a true and correct copy of the foregoing Motion for Enlargement of Time Pursuant to Fed. R. Civ. P. 6(b) was served this 17th day of October, 2005, via electronic mail as follows:

John S. Spadaro (#3155)
1011 Centre Road, Suite 210
Wilmington, DE 19805

By: /S/ Maryanne T. Donaghy, Esq.
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Attorney for Defendant,
Optimum Choice, Inc.

Dated: October 17, 2005